

General advice to Lola

- Do nothing before you get independent legal advice.
- Check with Centrelink about your pension rights.
- If you wish to go ahead, get formal agreements in writing.
- If troubles occur get legal advice as soon as possible.

The information contained in this publication is intended for use in NSW, and relates to the law as at 1st May 2010.

Contact OWN NSW:
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This publication has been developed by The University of Western Sydney and The Older Women's Network NSW, produced with the financial assistance of the Law and Justice Foundation of NSW.

The Foundation seeks to advance the fairness and equity of the justice system and to improve access to justice, especially for socially and economically disadvantaged people.

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This publication is intended as a guide to the law and should not be used as a substitute for legal advice.

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Agencies and others Lola could contact for help and advice:

- ① The Older Persons' Legal Service (A service of The Aged-care Rights Service). Tel: (02) 9281 3600 or 1800 424 079 (toll-free)
- ① Financial Information Service (FIS). Tel: 132 300
- ① LawAccess NSW
Tel: 1300 888 529. TTY: 1300 889 529
- ① Legal Information Access Centre (LIAC) (02) 9273 1558 or liac@sl.nsw.gov.au
Tel: 1300 888 529. TTY: 1300 889 529
- ① Welfare Rights Centre -
Tel: (02) 9211 5300
or 1800 226 028 (Toll free)
- ① Her solicitor. If Lola does not have a solicitor, she could contact the Law Society of NSW Solicitor Referral Service on (02) 9926 0300 for a list of solicitors in her area who deal with elder law matters.



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A Room of One's Own

Legal and financial issues for older women considering 'Granny Flats'



Lola is finding it hard to manage her old two-storey home, but she is unsure what she should do...

Lola has a two-storey house. She does all her own housework and shopping and manages this well using the local community bus service. However, she finds it a struggle to keep up the maintenance on the property and the ever-increasing council rates, with the old age pension being her only source of income.

Last summer Lola sprained her ankle and had to spend six weeks living in the lounge room and showering in her laundry because she couldn't climb the stairs. Her friend Joan had to move to a retirement village after she broke her hip, and now they hardly see each other. Lola knows she will also have to plan her move soon, but she'd like to consider her options. Lola likes the area where she is. She knows where all the services are, and she is able to see her other friends.

Property values in the last ten years have soared. Lola's son, Rudi, has suggested she sell up and that she invests her money in his new house, where he and his wife will accommodate Lola in a Granny Flat. He lives two hours away and her other two children are only forty minutes from where she is now, and they visit every second week. She doesn't want to rush this decision, but she feels time is not on her side.

Questions Lola might ask

Q. If I agree to do this, what problems could occur?

A. Entering into a "granny flat" arrangement is a risky business without legal protection.

Problems might arise with this arrangement if your circumstances change. You might meet someone else

with whom you wish to share your life or you may need more care than this arrangement offers. The unfortunate situation might arise where there is a dispute between yourself, Rudi and his wife, or other members of your family.

Q. If I agree to this arrangement, what right do I have over how my money is used?

A. You do have rights to specify how your money is to be used by Rudi. It is highly recommended that you seek independent legal advice regarding drafting a formal agreement specifying your options in order to protect your interests. A formal agreement involving significant money or property is essential, as it can outline your rights in the event any of the following questions should arise:

- Can I have access to the remaining money left from building/furnishing the granny flat?
- What happens to my portion of the contribution to the property if Rudi and his partner separate, and what happens to me?
- Will I get the money I gave Rudi to refurbish his home if I choose to relocate and no longer live with the family?
- Should my name be on the title deed?

Q. Will this granny flat arrangement affect my pension?

A. This granny flat arrangement may affect your pension entitlements.

It is important that you contact Centrelink and also seek independent legal advice regarding the effects of the transaction on your entitlements. Centrelink has special rules regarding granny flat arrangements.

Q. Even though it may offend my son, should we clarify our intentions and expectations regarding this arrangement by having a formal, written agreement drawn up?

A. Yes. It is important to keep in mind that if no formal written agreement is in place, the financial contribution could potentially be regarded as a gift, which could affect and reduce your pension payments or, in certain situations, stop the payment altogether.

Q. Is it possible to draw up documents to cover other non-financial issues, such as care, housework and maintenance?

A. Yes. You can arrange to have a Family Agreement made to clarify each party's understanding of their responsibility which may have formed a large part of the argument used to persuade you of the potential benefits of this arrangement.